

TABLE OF CONTENTS

	<u>PAGE</u>
I. INTRODUCTION AND SUMMARY	1
II. THE STREAMLINED TARIFF RULES ARE REASONABLE AND SHOULD BE ADOPTED	3
III. THE STREAMLINED TARIFF RULES SHOULD APPLY TO CERTAIN AMERITECH SERVICES.....	4
A. Special Access	5
B. Switched Access Transport.....	6
C. Switching.....	8
IV. THE COMMISSION SHOULD AMEND ITS PROPOSAL IN ORDER TO IMPOSE REPORTING REQUIREMENTS ON CARRIERS USING STREAMLINED TARIFF RULES	9
V. CONCLUSION	10

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Tariff Filing Requirements) CC Docket No. 93-36
for Nondominant Common)
Carriers)

COMMENTS OF AMERITECH

I. INTRODUCTION AND SUMMARY

The Federal Communications Commission (Commission) has initiated this Notice of Proposed Rulemaking (NPRM) in order to establish, to the maximum extent possible, "streamlined" tariff filing rules for nondominant common carriers. Until recently, nondominant common carriers were exempt from the Commission's tariff filing requirements under the Commission's so-called "forbearance" policy. That forbearance policy was invalidated in late 1992 in American Telephone and Telegraph v. FCC, 978 F.2d 727 (D.C. Cir. 1992).

In this NPRM, the Commission proposes that nondominant carriers be permitted to file their interstate tariffs on one day notice, to use modified formats for tariff filings, and to list the applicable rates for services in any manner, including a range of rates or a maximum rate. The Commission believes that these streamlined tariff rules are appropriate because market-driven pricing behavior can effectively supplant Commission regulation of prices.

Ameritech agrees with the Commission's proposals.¹ However, these streamlined tariff requirements should apply to Ameritech as well as to Ameritech's competitors. Ameritech's special access business is fully competitive

¹ Ameritech refers to the Ameritech Operating Companies, including: Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company and Wisconsin Bell, Inc.

today, so that market-driven pricing behavior can effectively supplant Commission regulation of Ameritech's special access prices. Expanded interconnection for special access will broaden competitive opportunities, and will thus further ensure that the marketplace compels Ameritech to offer just and reasonable prices without unreasonable discrimination among customers. Expanded interconnection for switched access transport will have the same impact on Ameritech's switched access transport business. Even more significant, however, is Ameritech's Customers First plan. When adopted by states and the Commission, the plan will immediately create effective competition across all of Ameritech's access services.

Ameritech makes no attempt in these comments to address the legal issue presented, *i.e.*, whether the Commission's proposal to allow carriers to file a range of rates or a maximum rate is permissible under Section 203. Ameritech has consistently stated that it favors minimal tariffing requirements for common carriers. If, however, the Commission is concerned about its ability to comply with Section 203, it could require carriers subject to streamlined regulation to file customer contracts which contain specific prices.

Ameritech believes that it is entitled to the streamlined tariff requirements that the Commission proposes, and that regulatory freedom should not be reserved for Ameritech's competition. If the Commission does not allow Ameritech to operate under the same streamlined tariff rules as its competitors, then, at a minimum, the Commission should require these carriers to file annual and quarterly reports which identify the size of their installed base of special access and switched access circuits. These reports will allow the Commission to monitor the rapidly accelerating competition in the interstate access marketplace.

II. THE STREAMLINED TARIFF RULES ARE REASONABLE AND SHOULD BE ADOPTED

Ameritech supports the Commission's streamlined tariff proposals because they incorporate the precise type of flexibility which is the hallmark of a competitive marketplace: (1) the ability to offer new services without regulatory delay; and (2) the flexibility to price services to meet competitive conditions.

For example, the Commission's proposal that tariff filings be effective on one-day notice promotes carrier efficiency because it minimizes the administrative effort required for new service approval. It also encourages new service innovation by increasing the likelihood that a new service will ultimately be approved, and by speeding up the approval process. This directly benefits customers by permitting them to obtain desired services more quickly and at lower prices.

Similarly, competitive market behavior is enhanced by the Commission's proposal that carriers be allowed to file tariffed rates in the form of a maximum price, or a range of prices. This proposal allows carriers to immediately adjust their prices to respond to competitive conditions. This benefits consumers by making available the lowest possible prices consistent with a competitive marketplace. Of course, pricing must still fall within a range of reasonableness set forth in the approved tariff rates, and must also comply with antitrust pricing requirements such as those related to predatory pricing.²

²Ameritech cautions the Commission against concluding that a tariffing requirement has an "anticompetitive impact" on nondominant carriers. NPRM at ¶ 15. If the tariff review process has a chilling impact upon the offering of new services, then that impact is clearly felt by all carriers, not just those classified as "nondominant." As the Commission knows, over the past few years competitive access providers (CAPs) have routinely used Commission processes to oppose almost every Ameritech new service filing or rate change.

Ameritech also notes that the Commission's concern with "the potential for tacit collusion among carriers" (NPRM at ¶ 22) seems particularly misplaced in an environment of Commission-sanctioned umbrella pricing. In this environment, the LEC averaged tariff rates establish a rate which competitors need only discount from slightly in order to capture price-sensitive customers. This is in no sense collusive, because it is done without express or implied agreement among

III. THE STREAMLINED TARIFF RULES SHOULD APPLY TO CERTAIN AMERITECH SERVICES

The Commission should not limit these significant competitive benefits to non-Ameritech customers. To the contrary, these streamlined tariff rules should apply to Ameritech so that its customers -- as well as the customers of CAPs -- can benefit from the prices, service quality, and service innovation created by a competitive marketplace.

Ameritech agrees with the Commission that consumer welfare is maximized when effective competition permits the regulator to streamline tariff requirements. Competition in the Interstate Interexchange Marketplace, Report and Order, CC Docket No. 90-132, 6 FCC Rcd 5880, 5881-82 (1991). While agency regulation is effective to ensure basic compliance with the Communication Act's goals of establishing just and reasonable charges without unreasonable discrimination, 47 U.S.C. §§ 201(b), 202(a), competition can achieve these goals more effectively. When carriers in a competitive market attempt to charge unreasonable rates, or attempt to discriminate unreasonably, customers have the ability to switch carriers. Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorization Therefor, Notice of Inquiry and Proposed Rulemaking, CC Docket No. 79-252, 77 FCC 2d 308 (1979); NPRM ¶ 9.

Moreover, effective competition provides additional benefits which traditional regulation of prices cannot. For example, competition maximizes carrier efficiency, speeds new service innovation, and encourages infrastructure development. Expanded Interconnection with Local Telephone Company

carriers. But it no doubt affects the pricing behavior of CAPs. See Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, FCC 92-440 (released October 19, 1992) at ¶ 178. It would be pointless to do away with the public filing requirement for some carriers because of "the potential for tacit collusion," without doing away with the requirement for all carriers, especially LECs.

Facilities, Report and Order, CC Docket No. 91-141, FCC 92-440 (released October 19, 1992), ¶¶ 13-18 (Expanded Interconnection Order). Accordingly, where effective competition exists, the Commission can maximize consumer welfare by streamlining tariff requirements and by allowing marketplace regulation to supplant agency regulation of prices. Of course, agency regulation of LEC prices need not be totally supplanted. The Commission's complaint process and its ability to initiate investigations remains in place to provide general regulatory oversight to carrier pricing practices.

As discussed below, this type of effective competition currently exists for Ameritech's special access services. It also exists for switched access transport, and will rapidly accelerate once the Commission's expanded interconnection proposal is implemented. Furthermore, competition for local switching will quickly accelerate once Ameritech implements its Customers First plan.

A. Special Access

Effective competition exists today for Ameritech's large business special access services. For example, in the large business customer segments in Chicago and Grand Rapids, Ameritech's portion of high capacity services (DS3, DS1 and DS0) has dwindled to 61% and 69%, respectively. These figures are based on a study of high capacity services conducted by Ameritech in the fall of 1992.

Of course, these figures do not show the effect of expanded interconnection, which will be implemented in May, 1993. Expanded interconnection will, as a practical matter, fully unbundle LEC special access circuits to customers' premises (*i.e.*, local loops), thus shattering any alleged "bottleneck" control over these facilities. In the wake of this "historic step", special access competition will "accelerate" and become even more pervasive. Expanded Interconnection Order, ¶¶ 1, 177. Since vigorous competition

currently exists for large business customer special access services, and since it will further intensify after May, 1993, the Commission should allow Ameritech to use the same streamlined tariff rules other carriers use.

B. Switched Access Transport

This same analysis applies to Ameritech's switched access transport

switched access transport services at the time expanded interconnection is implemented.

The streamlined tariff rules are particularly appropriate for Ameritech because it has recently proposed comprehensive reforms which will dramatically restructure the provision of telecommunications in the Ameritech region. Ameritech's Customers First plan, when adopted by state and federal regulators, will fully unbundle network components -- including local switching, the local loop, and numbering. It will also fully integrate the switches of state-certified competitors into the Ameritech network.

Since these proposals would immediately create a more fully functioning, competitive marketplace for the services Ameritech offers, they are contingent on reforms which allow Ameritech the same regulatory freedom as its competitors. This includes the ability to offer interLATA services, the ability to flexibly price services, the focusing of price cap regulation on non-competitive services, and the use of a formula that eliminates the need for annual sharing adjustments, in favor of a one time permanent adjustment.

The impact of this proposal, if implemented, will be most profound at the local exchange level, where competitors such as CAPs, ICs and cable companies will be well-positioned to extend the basic services they provide to businesses and residential customers.

However, there will be equally profound consequences for interstate access services. Under Ameritech's proposal, CAPs, ICs and cable companies will be able to originate switched access traffic and to transport that traffic themselves regardless of whether the destination is inside or outside the LATA. CAPs, for example, will no longer be transport providers hired at the behest of other carriers. Rather, they will be primary service providers in their own right.

Similarly, ICs will no longer need to purchase access services from Ameritech. Rather, ICs will purchase the local loop and will carry whatever access traffic is generated by that loop without paying any additional price. This arrangement will make it that much easier for CAPs, ICs and cable companies to participate in the switched access transport marketplace, because it will give them a greater customer base from which to generate their own transport traffic.

Since the combined effect of expanded interconnection and Ameritech's Customers First plan will create even more effective competition for switched access transport, there should be no question that Ameritech is entitled to the full range of the Commission's streamlined tariffing rules for its switched access transport services.

C. Switching

The Customers First plan also makes local switching services fully competitive. Since local loops are unbundled from local switching and usage, competitors are free to purchase Ameritech local loops and to route those loops to their own switch for further processing of the call. A typical scenario would be where an IC purchases selected local loops at an Ameritech central office, transports traffic which originates over those loops to the IC switch, and processes basic exchange, intraLATA toll and interLATA toll calls. Alternatively, an IC could purchase the designated loops in an Ameritech end office, purchase switching services from Ameritech, and direct Ameritech to route certain calls (e.g., intraLATA toll, interLATA) to the IC. The variety of these scenarios illustrates that in this environment, switching becomes a competitive service -- to be purchased either from Ameritech, the CAP, the IC or the cable company -- based upon competitive considerations such as price, quality, service and innovation. In this environment, Ameritech's interstate switching services will

be fully competitive, and will therefore qualify for the streamlined tariffing rules proposed by the Commission.

IV. THE COMMISSION SHOULD AMEND ITS PROPOSAL

public. The primary benefit of this proposal is that it would assist the Commission in meeting its statutory obligation under 47 U.S.C. § 203(a) to see that carriers file tariffs which show “all charges”. To the extent this language is interpreted to require a carrier to show specific charges for its services rather than a range of potential rates, the filing of customer-specific rates would appear to meet this requirement. It would also assist the Commission in identifying alleged discriminatory practices, and thus would assist the Commission in meeting its requirement under 47 U.S.C. § 202(a).

V. CONCLUSION

Ameritech supports the Commission’s proposal to implement streamlined tariffing requirements for carriers providing interstate access services. However, the Commission should not limit the benefits created by its proposal to non-Ameritech customers. The streamlined tariff rules should apply to Ameritech so that its customers -- as well as the customers of CAPs -- can benefit from the prices, service quality and service innovation created by a competitive marketplace.

This tariffing flexibility should be immediately authorized for Ameritech's special access services, because CAPs and ICs are providing effective special access competition today. This flexibility should be extended to Ameritech's switched access transport services when expanded interconnection is implemented, and should apply to Ameritech's local switching services when Ameritech's Customers First plan is adopted.

Respectfully submitted,

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